

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1551.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF CONSUMPTION CURE.

At a stated term of the Circuit Court of the United States for the Southern District of New York, begun and held the first Monday of March, 1910, the United States Attorney for said district, acting upon a report by the Secretary of Agriculture, filed in said court an information against Maurice C. Schlesinger, doing business under the firm name of Bendiner & Schlesinger, New York, N. Y., charging shipment by him, in violation of the Food and Drugs Act, on or about March 17, 1909, from the State of New York into the State of New Jersey of a certain package composed of an outer carton or container and a number of inner packages; that inner package No. 1 consisted of a pasteboard box containing a circular entitled "Special Advice to Professor Hoff's Patients", and containing also a bottle in which was a quantity of a certain drug; that said pasteboard box was labeled, in part: "Prof. Hoff's Cure for Consumption. Bendiner & Schlesinger, Chemists, N. Y. (Trade Mark). Professor Hoff's Cure for Consumption. A positive remedy from the recipe of the author. One month's medicine. \$1.00 per bottle, or 6 bottles for \$5.00, express prepaid. Bendiner & Schlesinger, Chemists, Third Ave. & Tenth St., New York, American Bureau Prof. Hoff's Cure for Consumption." That the circular entitled "Special Advice to Professor Hoff's Patients" contained in the pasteboard box stated, among other things on page 3: "Were the lungs alone affected, Professor Hoff's Consumption Cure could be relied upon without the assistance of any thing else to rid the system entirely of the consumption germs. But the kidneys, the stomach, the liver and the entire digestive tract are all weakened by Consumption and are most likely to require at least a tonic treatment in order that the Professor Hoff Consumption Cure may take hold and do its work." That the bottle containing the drug in inner package No. 1 was labeled: "Prof. Hoff's Cure for Consumption. Bendiner & Schlesinger, Chemists, N. Y. Trade Mark Prof. Hoff's Cure for Consumption. After the true recipe of the

author. Bendiner & Schlesinger, Chemists, Third Ave. & Tenth St., New York."

Analysis of this product by the Bureau of Chemistry of this Department showed the following results: "No alcohol; morphin in 100 cc., 0.1171 gram; cinnamic acid in 100 cc., 3.033 grams; potassium present; arsenic present." Misbranding was alleged in the information as to this product for the reason that the printed statements on the box regarding said product were false and misleading, in that the drug was not a "cure" for consumption, nor a "positive remedy" for said disease, and in that there was not on the pasteboard box any statement or indication of the fact that the drug contained morphin, whereas in fact the drug contained in the bottle in the box did contain morphin to the amount of 0.1171 gram per 100 cc., and was further misbranded, in that the statement in the circular regarding said drug was false and misleading, in that the drug would not rid the system entirely of the germs of consumption even if a tonic treatment were applied in conjunction therewith "in order that the Professor Hoff Consumption Cure" should "take hold and do its work," and for the further reason that the label on the bottle regarding said product was false and misleading, in that said product was not a "cure" for consumption.

Inner package No. 2 consisted of a pasteboard box containing a quantity of a certain drug. This product was labeled in part: "Superlatone (Trade Mark) The Highest Form of a Tonic. Composed of the combined Glycero Phosphates of Calcium, Sodium, Iron, Manganese and the Phosphates of the alkaloids of Nux Vomica in proper proportions." Analysis of this product by the Bureau of Chemistry of this Department showed the following results: "Manganese, calcium, sodium, strychnine, phosphoric acid present. No iron." Misbranding was alleged in the information as to this product for the reason that the printed statement regarding said product was false and misleading, because in truth and in fact it contained no iron whatsoever.

Inner package No. 3 consisted of a pasteboard box containing a bottle which bottle contained a quantity of a certain drug. This product was labeled in part: "Adjunct Cough Mixture Used in Conjunction with Prof. Hoff's Cure for Consumption." Analysis of this product by the Bureau of Chemistry of this Department showed the following results: "Alcohol 2.66 per cent; codeine in 100 cc., 0.1904 gram; chloroform in 100 cc., 0.26 gram." Misbranding was alleged as to this product for the reason that it bore no label or printed statement whatsoever indicating that it contained alcohol; whereas in truth and in fact it contained alcohol in the proportion of 2.66 per cent.

Inner package No. 4 consisted of a pasteboard box containing a bottle, which bottle contained a quantity of a certain drug. The box containing this product was labeled, in part: "Concentrated Appolozzer's Mixture After the Formula of Prof. Hoff To be used in conjunction with Prof. Hoff's Cure for Consumption Only where there is excessive fever." And the bottle contained in the box was labeled: "Concentrated Appolozzer's Mixture After the Formula of Prof. Hoff. To be used in conjunction with Prof. Hoff's Cure for Consumption Only where there is excessive fever. Directions: Teaspoonful in water three times a day. Bendiner & Schlesinger, Manufacturing Chemists, Third Avenue and 10th Street, New York City. Shake the Bottle. This concentration adopted 1908. 2½% alcohol." Analysis of this product by the Bureau of Chemistry of this Department showed the following: "Alcohol, 7.88 per cent; alkaloids in 100 cc., 1.932 grams; quinine present." Misbranding was alleged as to this product for the reason that the box containing it bore no label or printed statement whatsoever indicating that it contained alcohol, whereas in truth and in fact it contained alcohol in the proportion of upward of 7 per cent, and for the further reason that the label on the bottle contained in the box regarding the contents of said bottle was false and misleading, in that said label indicated the proportion of alcohol contained in said drug at 2½ per cent, whereas in truth and in fact the proportion of alcohol in said drug was upward of 7 per cent.

Inner package No. 5 consisted of a pasteboard box containing a bottle, which bottle contained a certain drug in the form of tablets. This product was labeled, in part: "Kodal Tablets, An Adjunct Medicine to be used with Prof. Hoff's Cure for Consumption as a relief for insomnia and to relieve night sweats." Analysis of this product by the Bureau of Chemistry of this Department showed the following results: "Codeine per tablet, 0.0156 gram." Misbranding was alleged as to this product for the reason that there was on the pasteboard box containing the drug no label or printed statement whatsoever indicating that it contained codeine, whereas in truth and in fact it contained codeine to the amount of 0.0156 gram per tablet.

On April 1, 1912, the defendant entered a plea of guilty and the court imposed a fine of \$25.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., May 31, 1912.